

POLLOCK | COHEN LLP

60 BROAD STREET, 24TH FLOOR
NEW YORK, NEW YORK 10004
(212) 337-5361

CONTACT:

Adam Pollock
Adam@PollockCohen.com
(646) 290-7251

June 4, 2019

VIA ECF

Hon. Michael E. Wiles, U.S.B.J.
United States Bankruptcy Court
Southern District of New York
One Bowling Green
New York, NY 10004

Re: *In re Boaz Bagbag*, Case No.: 08 br 12667 (MEW)
Bagbag v. Summa Capital Corp., Case No.: 19 ap 01022 (MEW)

Dear Judge Wiles:

We represent Mr. Boaz Bagbag, the debtor in the above-captioned matter. We write, after conferring with counsel for Summa, to respectfully request a new scheduling order in order to permit the debtor to amend his complaint. Summa's counsel has not indicated whether he consents or objects to the additional time.

Since the original petition was filed in this matter, new evidence has come to light that necessitates amending the complaint and the papers filed in support thereof. Moreover, as Your Honor previously suggested, and as the parties briefed, this matter can be treated as a direct attack on the judgment instead of state court procedure.

Because no responsive pleading has been filed, we propose to file an amended complaint within three days of Summa filing an answer, or within three days of Your Honor granting the request herein. *See* FRCP 15(a)(1)(B) ("Amending as a Matter of Course").

We understand however, that because this matter was originally brought on as a special proceeding in New York state court, Summa's counsel contends that we must file a motion to amend. Should Your Honor wish to consider such a motion, we respectfully request to file within one week of Your Honor granting the request herein.

Following the filing of the amended complaint, we are optimistic that we can agree upon a narrow discovery schedule with Summa's counsel.

Ultimately, we are confident that we will demonstrate that the stipulated judgment should be voided. Summa, of course, should still retain its opportunity to object to the debtor's discharge.

Memorandum Endorsement

If petitioner wishes to amend the complaint, it needs to file a motion that describes the proposed amendment and why it should be allowed. To the extent this letter is requesting that relief, it is denied. MEW 6/10/2019

Hon. Michael E. Wiles
June 4, 2019
Page 2 of 2

Thank you for Your Honor's consideration in this matter.

Respectfully submitted,

/s/ Adam Pollock

Adam Pollock

cc:

Wayne M. Greenwald, Esq. (*via ECF*)
(counsel for Summa Capital Corp.)

Greg Bennett, Esq. (*via email*)
(counsel for former counsel for debtor)